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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixteenth session

SUMMARY RECORD OF THE 9th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 2 May 1997, at 3 p.m.

Chairperson: Mr. CEAUSU
(Vice-Chairperson)

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 7) (continued)

Initial report of Zimbabwe (continued) (E/1990/5/Add.28; E/C.12/Q/ZIM.1)

1. At the invitation of the Chairperson, Mr. Chifamba, Mr. Zavazava and Mr. Chikorowondo (Zimbabwe) took places at the Committee table.

2. The CHAIRPERSON recalled that the Committee at its 8th meeting, had considered the written responses of Zimbabwe to the list of issues contained in document E/C.12/Q/ZIM.1. A number of points had been raised and he proposed that the Zimbabwean delegation should refer first to those relating to the general legal framework within which human rights were protected and to articles 1 to 4 of the Covenant.

3. Mr. CHIFAMBA (Zimbabwe) said that he would endeavour to answer all the Committee's questions. However, in the absence of the experts who had compiled the report, the delegation would have some difficulty in responding to the more technical points raised.

General legal framework within which human rights are protected

4. Given that judges were appointed by the Executive, some doubt had been raised as to whether they would rule against the Government in cases where citizens invoked their rights before the courts. In fact, the independence of the judiciary was guaranteed in the Constitution and on a number of occasions the Government had been found to be at fault.

Article 1. Right to self-determination

5. The report appeared perhaps to imply that the quest for self-determination had ended with the granting of independence. However, that right was also realized through the holding of elections. Parliamentary and presidential elections took place every four and five years, respectively. Zimbabwe was divided into 150 constituencies, each being represented by one member of Parliament. Currently, only three seats were held by members of opposition parties, a situation which was attributable, not to a lack of democracy, but to poor organization and lack of popular appeal. Elections to ward, district and provincial councils were also held, which ensured that many decisions were taken at the grass roots level. The Government aimed to include members of all the different ethnic groups in the various State structures.

Article 2. Non-discrimination

6. With regard to the rights of disabled persons, the decision by the International Disability Foundation to conduct a pilot study in Zimbabwe of the implementation of the United Nations Standard Minimum Rules on the

Equalization of Opportunities for Persons with Disabilities testified to the progress made by his Government in that area. It had, inter alia, enacted legislation whereby all new public buildings must be accessible to disabled persons, although there was still a problem with older buildings. He did not have sufficient information to respond to the allegation that the National Disability Board, established by the Disabled Persons Act, had met only twice before its funding was cut.

Article 3. Equality of men and women

7. Men and women enjoyed equal rights in every area of life, although he recognized that there was a disparity between women's de jure status and their de facto treatment. That situation was not due to a lack of effort on the part of the Government, which had created a Department of Community Development and Women's Affairs whose responsibilities included organizing campaigns, workshops and seminars aimed at changing perceptions of the role of women in society. Valuable work was also being done by non-governmental organizations in order to increase women's awareness of their rights. Already, there had been perceptible changes in the treatment of women both in the workplace and in the home, particularly in urban areas. It was not correct to imply, as Mr. Adekuoye had done, that Government initiatives failed to reach the population in rural areas. On the contrary, education campaigns were being conducted in the countryside by the Party, which, through its structures in the districts and wards, was able to reach people even at the grass-roots level. However, traditional perceptions of women were more deep-rooted among the rural population, including among women themselves. In many families, for example, while it was the wife who toiled in the fields, it was the husband who controlled the income from the sale of the produce. Although that situation was deplorable, it was difficult for the Government to intervene in family life.

8. Mrs. JIMENEZ BUTRAGUEÑO asked whether women whose rights were violated by their husbands had any possibility of recourse through the courts. The Convention on the Elimination of All Forms of Discrimination against Women, which Zimbabwe had ratified, required that States parties safeguard women's rights through legislation.

9. Mr. CHIFAMBA (Zimbabwe) said that women did have the possibility of such recourse. In the case of inheritance rights, for example, a draft law aimed at ensuring that a man's property would pass to his wife upon his death, rather than to his relatives, as had been the practice under customary law, had recently been approved by the parliament and was awaiting presidential assent. Where adolescent girls were forced into marriage, laws on the age of majority and on rape could be invoked. Efforts were being made to improve legislation on women's rights and to enforce existing laws. Often, however, women were unaware of those legal safeguards, or, as in domestic violence cases, were reluctant to seek the help of the authorities.

Article 4. Limitations on the enjoyment of economic, social and cultural rights

10. As Mr. Antanovich had observed, while the report stated that the Covenant was fully implemented, it also cited instances in which limitations were imposed. Clarification had been sought from the authors, and he would raise the matter with his Government with a view to ensuring that no such inconsistencies occurred in future reports.

Issues relating to specific rights recognized in the Covenant

Article 6. Right to work

11. The CHAIRPERSON noted that no information had been provided in Zimbabwe's written answers concerning the matters raised in questions 14 and 15 of the list of issues.

12. Mr. RIEGEL referring to discriminatory practices in the work place (issue 17), asked what was meant by the independent employment evaluation exercise on the grounds of which the employee cited in the written responses had lost her case; whether the Government had had to deal with complaints of gender discrimination in black-run companies as well as in multinational corporations and white-dominated companies; whether remedies for discrimination were universally available; and whether anti-discrimination action had been taken by the executive branch and by the legislature, and not only by the judiciary.

13. Mr. TEXIER requested more information on specific steps being taken by the Government, such as general planning and training programmes, to try to reduce the major problem of a 35 per cent unemployment rate (paras. 16 and 17 of the report).

14. Mr. CHIFAMBA (Zimbabwe) said that, in the past, firms had often subverted the investigation of allegations of discrimination by submitting supposedly independent employment evaluations by outside consultants to make their case against employees, as in the instance cited. The reform measures now required objective in-house evaluations of employees alleging discrimination.

15. The Government had made the advancement of women a priority and many women held public posts of authority. The problem was in the private sector, where most firms were white-controlled and whites held almost all the management posts. The Government was working to change the situation, at least at the entry level, by requiring that blacks be given posts or engaged as apprentices until they were trained. Women, of course, suffered double discrimination on account of both race and gender. Discrimination between men and women was greater in the family setting than in the professional world because of the recent action taken by the Government. Legislation to counter gender discrimination had been enacted, and affirmative action programmes had been adopted to improve the lot of women.

16. In order to address the problem of the high rate of unemployment, the Social Dimensions Funds were being used not only to cushion the impact of unemployment but also to provide skills training in new fields for the unemployed. Assistance was also available under the National Social Security Authority. In the schools, a skills-oriented "education with production" programme had been instituted upon independence as a means of rehabilitating former combatants, and it prepared students to start their own enterprises. On the funding side, the Government's Venture Capital Company supported fledgeling enterprises while management skills were acquired and until the companies were self-sustaining. The Small Enterprise Development Corporation, as well, provided start-up capital; and most banks had small business units for such assistance.

17. Employment in the informal sector was beginning to rise but was difficult to quantify, as most of those working in that sector sought to avoid the tax net. In the formal sector, the Government was endeavouring to attract both domestic and foreign investment and to create an enabling environment through its Economic Structural Adjustment Programme, by offering incentives such as tax holidays, profit retention arrangements and the creation of export-processing zones. Despite Zimbabwe's wealth of resources, however, investment was not reaching the level hoped for. Under the Government's policy of indigenization in the construction, manufacturing and commercial industries, incentives were offered for domestic investment, and there were also private pressure groups working to the same end.

18. As the land acquisition programme became more effective in altering the present situation, where 1 per cent of the population controlled 54 per cent of the best land, it was hoped that more and more Zimbabweans would turn to the land as a source of livelihood.

19. Mrs. JIMENEZ BUTRAGUEÑO asked whether any requirements were imposed in the informal sector to ensure that minimum employment standards were met; whether government incentives included financial advantages given to multinational corporations; and whether the Government was planning to impose heavier taxes on the fortunes of large landowners.

20. Mr. ADEKUOYE said that a major obstacle to solution of the problem of unemployment and underemployment in Zimbabwe, one which had not been addressed in the report, was the 3.1 per cent population growth rate, one of the highest in the world. He wondered what steps the Government was taking to deal with that problem, common to all of Africa.

21. The Government had furnished some statistics relating to employment of women in the informal sector, but more information was needed on the structure of that sector in general and on the kind of informal small-scale enterprises in which women were reportedly employed.

22. He was dubious that the Government's land redistribution programme would succeed. In many countries young people did not want to go back to the land, for they viewed doing so as a sign of failure. He wondered whether that was the case in Zimbabwe.

23. Mr. TEXIER noted that while unemployment was reported to be rising in the formal sector, detailed figures had not been given for the informal sector, where work, often with no benefits, was precarious at best. Was an expansion of the informal sector really desirable? The Covenant in articles 6 and 7 envisaged true, stable employment with just and favourable conditions of work.

24. Mr. CHIFAMBA (Zimbabwe) said that the workers' committees mentioned in paragraph 20 of the report determined working conditions through collective bargaining in small and medium-sized firms in the formal sector. Zimbabwe was also highly unionized, and had strong trade unions. There was no guarantee, however, that working conditions in the informal sector, where so much of the work was undeclared, were satisfactory.

25. He agreed that the multinational corporations in Zimbabwe were exploitative, although the National Social Security Authority did inspect safety and health conditions in the workplace of even the largest enterprises. Moreover, because of their strong trade unions, workers had always been able to press for advantages. They had, for example, rebelled against the waiver of labour laws in export-processing zones and had succeeded in overcoming the opposition of both the Government and the multinational corporations. The Government was trying to encourage multinational corporations to engage in joint ventures with indigenous workers as a way of reducing discrimination against blacks in employment.

26. Regarding land reform, the Government was currently studying the report of its Land Tenure Commission, which recommended ways of reforesting degraded land that had been resettled and proposed a land tax to discourage the use of agricultural land for purely grazing purposes by large landowners.

27. He agreed with Mr. Adekuoye that the high population growth rate was a matter of serious concern, not only in relation to employment but also in connection with the provision of free education. In the past, high population growth rates had been considered bad for development, but the experience of the Asian countries showed that a large population could be an asset in achieving an economic boom. Zimbabwe, despite its large population, still had the advantage of producing a food surplus. Moreover, the Government was having some success with its family planning and sex education programmes.

28. The statistics on the informal sector given in the report indicated that data collection had not been a total failure. However, there was still a margin of error. As to the structure of the informal sector, informal enterprises were always rudimentary but were a stepping-stone for the launching of small-scale industries in the formal sector, at a much higher level. The line of demarcation between cottage industries and formal industries was sometimes blurred.

29. Mr. TEXIER observed that expansion of the informal sector was of benefit only if it was in fact a stepping-stone to small or even large-scale enterprises. A large informal sector in itself, however, should not be seen as a solution to problems or even as a panacea, especially where it became a permanent feature of the economy.

30. Mr. CHIFAMBA (Zimbabwe) confirmed the reluctance of young people in Zimbabwe to work on the land. The current farming practice, where land was left fallow and farmers did not work for eight months of the year, was part of the problem. However, the Government's dam construction policy should help to change that situation. The young needed to be shown the full potential of the land before they would regard farming as a worthwhile occupation. The Economic Structural Adjustment Programme aimed to spur production in rural areas, using the concept of village growth points to halt the drift to the towns, and providing for such measures as electrification of villages and construction of housing. After production, of curse, came marketing and distribution. The process of agricultural reform was a long one.

31. Mr. ANTANOVICH, referring to paragraph 17 of the report, which highlighted the high rate of unemployment stemming from the discrepancy between the number of school leavers and the number of jobs created each year, expressed some doubt regarding the possibility of ever solving the development problems attributable to the increasing pool of unemployed young persons. Those were problems which many countries would have to face in the years to come.

32. Mr. CHIFAMBA (Zimbabwe) said that the school leavers referred to in that paragraph were actually graduates of learning institutions. His Government recognized the need to reduce levels of unemployment and was making every effort to revise the school curriculum with a view to developing skills training. Regional cooperation was also seen as an important factor that could contribute to economies of scale, and thus ease the burden of unemployment.

Article 7: Right to enjoyment of just and favourable conditions of work

33. Mr. WIMER asked whether there were any forms of legal discrimination against women in Zimbabwe.

34. Mrs. BONOAN-DANDAN drew attention to the fact that the disadvantages suffered by women were often difficult to assess. She was therefore curious to know how the Government monitored the existence of discrimination on the basis of sex, and whether there was a process of review of legal standards to determine their influence on conditions of work.

35. Mr. CEVILLE drew attention to an apparent contradiction between the information in paragraph 27 of the report and that given in paragraphs 28 and 29. The fact that working conditions of women were inferior to those of men, and the fact that less educated women were at some disadvantage before the courts seemed inconsistent with the statutory prohibition of discrimination.

36. Mr. TEXIER asked whether deregulation had been responsible for the increase in the number of dismissals since 1990, or for the decline in the minimum wage levels during the same period.

37. Mr. ADEKUOYE said that he wished to know the conditions for the grant of work permits to non-nationals of Zimbabwe and what legal provision was made for the protection of workers, particularly in the mining, domestic and farming sectors.

38. He also requested statistics on the type and frequency of occupational accidents and an indication of relative wages in the private and public sectors.

39. Mrs. JIMENEZ BUTRAGUEÑO asked for a comparison of wages between the formal and informal sectors of the economy and reiterated Mr. Adekuoye's concern for safety at the workplace.

40. The CHAIRPERSON said it was clear from paragraph 24 of the report that minimum wages in Zimbabwe had declined. He questioned the real meaning of free negotiations and suggested that from the unemployment index in Zimbabwe, such freedom appeared to work in favour of the employer. States parties to the Covenant should make every effort to redress imbalances in order to allow workers to benefit from wage increases.

41. Mr. CHIFAMBA (Zimbabwe) said that, in its efforts to improve the situation in the area of discrimination, the Government of Zimbabwe responded swiftly to reports of contravention of labour standards. Several mechanisms, including free legal aid, had been established to strengthen the outreach capacity of the competent labour authorities in conducting investigations at the shop floor level. The Government relied heavily on the affected parties making representations directly or through non-governmental organizations, which could take follow-up action on their behalf.

42. Deregulation had not necessarily led to a decline in minimum wages and there had in fact been a general upward trend of remuneration. However, because of the high level of unemployment, competition had created a situation where the employer's capacity to dismiss workers was used as leverage in negotiations. Workers in the commercial and industrial sectors were actually in favour of deregulation because employers had previously used the existence of a minimum wage as an argument for keeping wages low.

43. The freedom to negotiate had dual consequences: on one hand, unionization had led to greater awareness among workers and had improved their capacity to present their demands. On the other hand, employers used the threat of dismissal as a weapon to offset arguments highlighting discriminatory practices.

44. It was questionable whether deregulation by itself had given rise to unnecessary dismissals, but it might have done so as a part of structural adjustment. However, compensation for job losses counteracted the effect of dismissals and led to new investment, for in many cases released workers were able to establish a business of their own, using their severance allowance as capital.

45. Refugees were granted work permits, as were expatriates from other countries who had skills that were in short supply in Zimbabwe. Foreign investors usually wished to employ their own nationals as managers, but the

Government made every effort to ensure that Zimbabweans were also considered for employment in multinational companies. It had recently enacted legislation equalizing citizenship requirements for foreign men and women marrying nationals of Zimbabwe.

46. An explanation for the apparent contradiction between the prohibition of discrimination referred to in paragraph 27 and the inferior conditions of work for women mentioned in paragraph 28 lay in the hypothetical nature of the information given, which was not simply a bare statement of fact. Paragraph 29 was an elaboration indicating that educated persons were in a better position than the illiterate to defend their positions. The latter might, however, apply for legal assistance or request representation by their workers' committee. Action was being taken to educate female workers on their rights.

47. He undertook to furnish the information which had been requested concerning comparative wages.

48. Referring to the comments which had been made concerning the current trend towards deregulation of labour, which effectively reduced security of employment, he said that while that trend had not yet affected the Zimbabwean civil service, performance-related criteria were nevertheless being introduced. Cost-cutting measures in place included steps to reduce the size of the civil service, but that would be undertaken scientifically in accordance with non-discriminatory criteria. In general, however, deregulation tended to undermine job security.

49. Mr. WIMER restated his question as to whether any legal discrimination existed in Zimbabwean labour legislation. Although all modern constitutions called for equality, legislation frequently embodied discrimination.

50. Mr. CHIFAMBA (Zimbabwe) said he was not aware of any form of discrimination under his country's existing legislation.

51. Mr. RATTRAY said that the information presented to the Committee clearly reflected the importance attached in Zimbabwe to holding employment. He would like to learn the reason for that. The report contained no reference to unfair dismissal, and he asked whether any provision was made for ordering reinstatement, as opposed merely to granting compensation, since it appeared that jobs were difficult to find.

52. Mr. CHIFAMBA (Zimbabwe) confirmed that channels existed for appeal against dismissal that was deemed unjustified, particularly for breach of contract. Top management executives, for example, might be dismissed for non-performance as determined by the Board of their company or by the Government. A reinstatement ruling might be given, unless the employer insisted on the employee's removal, in which case the latter would receive substantial compensation. However, educated individuals were better equipped to deal with the legal issues involved in such situations, while the union movement should assume the task of making the lower echelons of workers aware of their rights.

53. Mrs. BONOAN-DANDAN said that monitoring of discrimination appeared to be conducted primarily by NGOs, while government agencies existed to deal with complaints of discrimination and labour relations matters. She asked how many cases of sex discrimination had been reported during the previous year by women. The report of Zimbabwe referred to the continued prevalence of child labour, which was not illegal, including in the mining industry, and stated that protection existed for working children. She asked why that practice was still so widespread, and what past or present government measures addressed the problem.

54. Mrs. JIMENEZ BUTRAGUEÑO requested information on the protection available to employees, other than top level management, who lost their jcbs. Were other employees in the formal sector who became redundant eligible for social security or unemployment benefit? Did any type of fund exist to ensure the economic survival of persons in the informal sector who lost their jobs?

55. Mr. ADEKUOYE requested information on the outcome of the study undertaken by the Inter-Ministerial Committee on Child Labour that was mentioned in paragraph 37 of the report.

56. Mr. CHIFAMBA, replying to the members' questions, said that a dismissed person received terminal benefits calculated on the basis of years of service. Compensation was generally sought only in cases of alleged unjustified dismissal, which were settled by the courts or by the Ministry of Labour's industrial relations tribunal. The Government and the trade unions would need to do much in order to inform the lower echelons of labour of their rights, before a genuine avenue could be opened for shop-floor workers to contest dismissal. He undertook to provide specific information on the number of sex discrimination cases reported. He believed that reports of sexual harassment in the workplace tended to be more frequent than reports of sex discrimination, which reflected broader recognition of women's rights in both the public and private sectors.

57. On the subject of child labour, the report contained information on the legal minimum age for employment. Child labour certainly existed, to an extent that depended on how the phenomenon was defined. Very broad definitions would include the situation of a child assisting its parents in the household or in agricultural work. The crux of the matter was really whether activities engaged in by children might be considered part of learning skills to ensure survival. The gravest problems related to children required to work in such sectors as mining, where small boys were useful on account of their size. Paragraph 37 outlined action being taken by the Government to deal with the problem. The population had formerly relied more extensively on farming. The problem of child labour had become prevalent only after the drought years of the 1980s and 1990s when people had turned to gold panning, which proved to be more profitable than agriculture. The Government was endeavouring to counter that trend because of the damage it was causing to the environment. Strong measures might have to be taken to encourage people to return to traditional agricultural activities. In short, the Government was aware of the problem which existed and had initiated corrective action.

58. Mrs. BONOAN-DANDAN requested more up-to-date information on the subject of child labour.

Article 8. Right to form or join a trade union

59. Mr. TEXIER considered that the conditions attached to the right to strike in Zimbabwe were somewhat restrictive. Although those listed in paragraph 59 of the report applied in many countries, the ban on strikes by civil servants might give cause for concern if it implied that all civil servants, including for instance teachers, were denied the right to strike.

60. Mr ADEKUOYE drew attention to the apparent contradiction between the fact that Zimbabwe's Constitution did not provide for trade unionism in the civil service, while paragraph 27 of the delegation's written response to the list of issues named a number of unions existing in the Public Service. He requested confirmation that a number of civil service unions had indeed gone out on strike recently. He suggested that the restriction upon exercising the right to strike imposed on workers employed in "essential services" allowed the Government considerable latitude. He would welcome further information on how such restrictions were applied.

61. Mr. ANTONOVICH asked the delegation of Zimbabwe to indicate the conditions that trade unions had to meet before registration (E/1990/5/Add.28, para. 5).

62. Mr. RATTRAY asked whether the power of the appropriate minister to terminate or suspend a strike applied exclusively to essential services or included all services; whether the constitutional provision embodying the right to strike would enable the employer to argue that the contract of employment had been breached by a person exercising the right and consequently terminate employment, and whether a tribunal existed to examine cases in which procedures governing strikes had been applied, and, if so, would its ruling be binding on all parties, or might be subject to further judicial review.

63. Mr. THAPALIA asked what percentage of the labour force had successfully joined trade unions under the existing trade union legislation and what percentage had achieved their collective bargaining aims by going out on strike. He also requested information on the number of working hours lost in the industrial sector through strikes.

64. Mrs. JIMENEZ BUTRAGUEÑO requested information concerning the bargaining power possessed by civil servants, and the channels open to them for making their views known.

65. Mr. ADEKUOYE asked for confirmation of his understanding, from paragraph 53 of the report, that the Minister of Public Service, Labour and Social Welfare effectively held a power of veto over applications by trade unions to join international trade union organizations, and whether that was not counter to the relevant ILO Convention.

The meeting rose at 6 p.m.